

1 BILL NO. R-85-02-29

2 RESOLUTION NO. R-

24-85

3 A RESOLUTION of the Common Council
4 of the City of Fort Wayne, Indiana,
5 confirming the continuance of a flood
6 emergency and ratifying an agreement
7 by and between the City and the Federal
8 Government for flood assistance.

9 WHEREAS, the Mayor has previously declared a flood
10 emergency;

11 WHEREAS, it is necessary to continue such declaration;

12 WHEREAS, the Federal Government, through Public Law 99,
13 provides flood emergency assistance; and

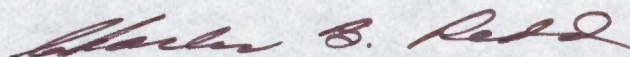
14 WHEREAS, to obtain federal assistance it is necessary
15 for the City to execute an agreement with the Federal Government.

16 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF
17 THE CITY OF FORT WAYNE, INDIANA:

18 SECTION 1. The flood emergency, as previously declared
19 by the Mayor, is hereby confirmed and continued and the Mayor and
20 the City in general shall have all statutory powers to deal with
21 such emergency.

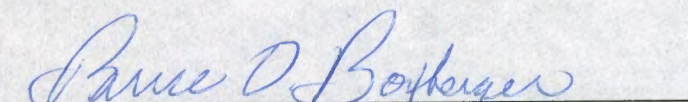
22 SECTION 2. The annexed agreement, by and between the
23 City and the Federal Government for flood assistance, is approved
24 and ratified in all respects and the execution of such agreement
25 by the Mayor and the members of the Board of Public Works and
26 Safety is ratified and approved.

27 SECTION 3. That this Resolution shall be in full force
28 and effect from and after its passage and any and all necessary
29 approval by the Mayor.

30 

Councilmember

31 APPROVED AS TO FORM
32 AND LEGALITY


Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ .M., E.S

DATE: _____

SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Redd, seconded by Talarico, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>8</u>	_____	_____	<u>1</u>	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	_____	_____	_____	<u>✓</u>	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 2-26-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ANNEXATION~~) (~~APPROPRIATION~~) (~~GENERAL~~)

(~~SPECIAL~~) (~~ZONING MAP~~) ORDINANCE (~~RESOLUTION~~) NO. B-24-85
on the 26th day of February, 1985,

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Mark E. GiaQuinta
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of February, 1985, at the hour of 11:00 o'clock A.M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 28th day of February, 1985, at the hour of 4:30 o'clock P.M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

Col. Raymond T. Beurket, Jr., Commander
U. S. Army Corps of Engineers
744 Michigan Avenue
Detroit, MI 48226

Dear Sir:

The City of Fort Wayne, Indiana hereinafter referred to as "Sponsor", does hereby request the Federal Government, under the authorization contained in Section 5 of the Flood Control Act approved August 18, 1941, as amended (33 U.S.C. 701n), to provide supplementary assistance in performance of protective work required to cope with predicted flood flows, including the raising, strengthening and extending of Sponsor's levees by sandbagging or other temporary means.

In consideration of the benefits which are expected to accrue by reason of participation of the United States in said emergency flood control work, Sponsor does hereby agree and pledge that it will truly and faithfully perform the following conditions, to-wit:

- a. Provide without cost to the United States all lands, easements and rights-of-way for the emergency work, including, but not limited to, levee, borrow, spoil and access rights-of-way.
- b. Hold and Save the United States free from all claims for damages attributable to the construction works except for damages due to the fault or negligence of the United States or its Contractors.
- c. Operate and maintain the emergency construction works for the duration of the flood emergency.
- d. Provide as required under the applicable provisions of Public Law 91-646 relocation assistance payments to those eligible because of dislocation of persons or property from their dwellings, farms or businesses due to the acquisition of rights-of-way for the emergency flood construction work.
- e. Remove after the flood emergency without cost to the U. S. Army Corps of Engineers, any temporary emergency works constructed for the flood emergency.

AND the said Sponsor, as part of the aforesaid consideration, does hereby release and forever discharge the United States, its officers, employees, agents and assigns, in the prosecution of the proposed emergency flood control work herein contemplated, from all claims, demands, actions and causes of action whatsoever, which may arise by reason of, or in any manner have grown out of or alleged to have grown out of, the construction of the said flood control work as herein contemplated.

PERMISSION is hereby granted to the United States of America, its officers, employees, agents and assigns, and the Government contractors, their officers, employees, agents and assigns, to enter upon Sponsor's lands and rights-of-way, including any additional rights-of-way to be obtained by said Sponsor, for the purpose of performing the emergency flood control work hereinabove described.

IT is hereby certified that the undersigned have the legal authority to execute the above agreement; that the assistance herein requested is beyond the capability of local authorities; and that every possible effort shall continue to be made at the local level to accomplish effective protection from the flood.

EXECUTED this 24th day of February, 1985.

(Affix official seal here;
if none, so state)

David J. Kiser
Cecilia R. Kiser

The foregoing Assurances of the City of Fort Wayne, Indiana are hereby
accepted for and on behalf of the United States of America.

DATE: _____

Raymond T. Beurket, Jr.
Colonel, Corps of Engineers
District Engineer

BILL NO. R-85-02-29

REPORT OF THE COMMITTEE ON REGULATIONS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS
REFERRED AN (~~ORDINANCE~~) (RESOLUTION) of the Common Council
of the City of Fort Wayne, Indiana, confirming the continuance of a
flood emergency and ratifying an agreement by and between the City and
the Federal Government for flood assistance

HAVE HAD SAID (~~ORDINANCE~~) (RESOLUTION) UNDER CONSIDERATION AND BEG
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (~~ORDINANCE~~)
(RESOLUTION) _____

YES

NO

Charles B. Redd

CHARLES B. REDD
CHAIRMAN

Janet G. Bradbury

JANET G. BRADBURY
VICE CHAIRWOMAN

JAMES S. STIER

Ben A. Eisbart

BEN A. EISBART

Donald J. Schmidt

DONALD J. SCHMIDT

CONCURRED IN 2-26-85

SANDRA E. KENNEDY
CITY CLERK